

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

MEMORANDUM

DATE: OCT 15 1996

SUBJECT: ACTION MEMORANDUM - Notice of Proposed Rulemaking -
Pennsylvania - Disapproval of the Reasonable-Further-
Progress Plan for the 1996-1999 Period for the Philadelphia
Area (PA 088-4033)

FROM: Marcia L. Spink, Associate Director *DA Arnold*
Air Programs
Air, Radiation, and Toxics Division (3AT00)

TO: W. Michael McCabe
Regional Administrator (3RA00)

I am enclosing a Notice of Proposed Rulemaking for the State of Pennsylvania to be published in the Federal Register. This SIP revision was submitted by the State of Pennsylvania on November 15, 1994.

IDENTIFICATION OF ACTION

This action proposes to disapprove a revision to the Pennsylvania State Implementation Plan (SIP). This action has been classified as a Table 3 action under the SIP processing guidelines of the July 10, 1995 memorandum from the Assistant Administrator for Air and Radiation. Table 3 actions are delegated for Regional Administrator decision and sign off. This action proposes to disapprove a plan for demonstrating reasonable-further-progress toward the ozone NAAQS for the Philadelphia nonattainment area over the 1996 to 1999 time frame.

SUMMARY OF ACTION

On November 15, 1994, the Commonwealth of Pennsylvania formally submitted its post-1996 rate-of-progress (ROP) plan for the Philadelphia area as a SIP revision. At the same time, Pennsylvania had also submitted a 15% plan for the Philadelphia area, to show reasonable progress for the 1990 to 1996 time frame. Since that time, Pennsylvania made significant amendments and resubmitted its 15% plan, twice, since that time without revising its post-1996 plan.

In 1995, a group of environmentalists, Delaware Valley Citizens Council For Clean Air filed suit against EPA for failure to act upon Pennsylvania's I/M SIP and upon reasonable-further-progress plans for the Philadelphia area. After the litigants filed a motion for summary judgement in the case, EPA met with the litigants to reach a settlement agreement. In July of 1996, EPA and the litigants signed an agreement, which included a schedule to process several Pennsylvania SIPs -- including the post-96 ROP plan for Philadelphia. The deadline for taking rulemaking action on this plan was set as September 30, 1996.

This settlement agreement is the impetus for today's action. In most cases, ROP plans do not impose new control measures or requirements, but merely quantify emissions reductions for the purpose of progressing toward attainment of the ozone NAAQS. Due to the nature of reasonable-further-progress plans and the fact that EPA is today proposing disapproval of the plan, this action will not affect air quality. Today's action is being taken under Section 110 of the Clean Air Act.

COORDINATION WITH STATE

EPA worked closely with the State of Pennsylvania during the SIP revision process. Regional personnel commented on several versions of the Commonwealth's 15% plan, and on the emissions inventory, which form the backbone of this plan. EPA did not comment on a draft of the post-96 plan itself, due to the expediency of the formal SIP submittal by the Commonwealth to avoid the sanctions process associated with missing the CAAA deadline. The State submitted the adopted version (dated November 12, 1994) of its plan as a formal SIP revision on November 15, 1994.

ISSUES

The principal issue associated with this action is the deadlines imposed for EPA's rulemaking action set forth in the settlement agreement, discussed above. Since the Commonwealth was actively working to revise its 15% plan, and claimed it would submit a revised post-1996 plan, EPA has, in the past, hesitated to proposed disapproval of the "placeholder" post-96 plan, which EPA has had in-house since 1994.

The proposed disapproval action is based upon a lack of an interim emission "target level" for 1999, without which, reasonable-further-progress cannot be determined. All emissions reductions claimed by the Commonwealth in its plan are estimated for the year 2005, not 1999 as required by the Clean Air Act.

The 1990 base year inventory used to determine many of the reductions claimed in the plan and to project emissions growth, is invalid, since Pennsylvania formally submitted (in September 1996) a revised inventory which superseded the inventory contained in the post-1996 plan.

COMMUNICATIONS STRATEGY

A communications strategy has been prepared on this action. The communication strategy consists of contacting the State of Pennsylvania and the Clean Air Council upon the signature and upon publication of the proposed rulemaking notice.

PROCEDURAL REVIEW

This document was prepared by Brian Rehn, (215) 566-2176. This Table 3 action is exempt from OMB review.

CONCLUSION

Please concur with our recommendation by signing the attached Notice of Proposed Rulemaking at your earliest convenience.

Attachment: Notice of Proposed Rulemaking